



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

due performance. And lastlie, whereas there are certaine Instructions Signed by our Privie Counselle for the ordering & governinge of that Plantation, we will & comaund you to see them carefullie observed and put in execution. Given under our Signet, at our Castle of Windsor, the twelfth day of September, in the seventh yeare of our Raigne. Vera copia.—*State Papers, Colonial*, Vol. 5, No. 94. (Sept. 12th, 1628.)

SAINSBURY'S ABSTRACTS.

THE CASE OF CAPTAIN MARTIN.

Wyatt's commission, which will be found given in full in the *Historical Collections* by Hazard (Vol. I, pp. 189-192), contains about eight times as many words as the abstract in this Magazine, Vol. VII, pp. 129-130. The Proclamation by Charles I, is also given in full by Hazard, I, pp. 203-205; it only contains about 400 words more than the abstract, VII, pp. 132-134.

Wyatt's letter of Dec. 2 (O. S), 1624, contains about 600 words more than the abstract, pp. 130-131; and that of June 15, (O. S.), 1625, over 600 more words than the abstract, pp. 134-136. Mr. Sainsbury was mistaken in giving Francis West, a signer of these letters, the title "Sir," he was a Captain not a Knight. Wyatt's letter of Feb'y 4 (O. S), 1625 (N. S.) contains only 300 words more than the abstract (pp. 131-132), and the enclosures in this letter given on pp. 137-146, are quite complete, save that No. 36, IV, "The examination and deposition of witnesses," is not given; but I infer, this will be done in the next number of the Magazine.

These enclosures are not given in proper order in the calendar. No. 36, I, and IV, were made in December 1624, and considered by the Council of State, in Virginia, on January 6, 1625 (N. S.), who enclosed them, together with their own order thereon (No. 36, II,) and a copy of the original warrant (No. 36, III,) to the Council and Company in England in the letter of Feb'y 14, 1625, given on pp. 131-132. May 3rd, 1622, the date given to your

copy of the warrant on p. 146, is not correct; Lieut. Edmund Sanders was massacred by the Indians more than a month before this. The correct date is 1621 as given in *The First Republic in America*, p. 414.

These letters and enclosures taken by themselves are very severe on Martin; but when the whole evidence is considered it will be seen that it was necessary to use a great deal of diplomacy in his case, and that there were extenuating circumstances connected therewith.

Having contributed a sum of money equivalent to over \$2,250 in present values to the enterprise and having served in person in the colony under the company for seven years, he was entitled to over eight and a half shares of land in Virginia when he returned to England with Sir Thomas Dale in June, 1616. At a Virginia Court on November 18th (N. S.), 1616, he was allowed in reward for his services ten shares of land in Virginia, and James I, was instrumental in having sundry extra privileges inserted in his patent, which was presented "ready engrossed at a private court called extraordinarily," and in deference to the King was passed, notwithstanding the dislike of divers of the committee to the royal privileges granted therein.

As the importance of the underlaying principles of the company charters of 1609 and 1612, had evidently been recognized by those royalists who had opposed granting them, those principles must have been well understood by the King, and it is probable that he only granted the liberal rights *in perpetuo* for the purpose of giving needed encouragement to the colonists at the time, that he really intended annulling them at his pleasure; and he may have had these extra privileges granted to Martin for the purpose of obstructing, in chrysalis, the "policy of the free and equal government," which "the Body Politic" was now arranging to put into effect in America; and in order to sow the seed of discord in the colony which might finally furnish him with a pretext for annulling the liberal charter rights he had granted to the company. Whatever may have been the King's purpose, that was the result; these royal privileges caused almost as much discord in Virginia, as the King's form of government of 1607-1610 had done.

Martin took this patent with him to Virginia in the Spring of

1617, and located his plantation at Martin's Brandon, and then the trouble began. Naturally his extra privileges gave dissatisfaction to others, and naturally Martin began to cast some aspersions on the policy of government which was antagonistic to his own charter rights. Governor Argall sent a protest against these privileges to the Virginia Court in England in the Spring of 1618, and the Quarter Court of May 16th, appointed a committee to examine and reform the said patent; but it was not deemed advisable to oppose the King's act openly and the patent was not reformed.

Magna Carta, confirmed by the Virginia Quarter Court in England on November 28th (N. S.), 1618, authorized the election of Burgesses from each Plantation, and did not make an exception of Martin's Brandon, which was then a settled plantation and under the aforesaid patent, while Ward's was not then planted. All acts passed by the Assembly had to be ratified by the said Virginia Court before they became laws, and if so ratified Brandon would not have been exempted from such jurisdiction. Strictly speaking, the Burgess from Brandon should have been admitted and Acts should have been passed against Martin's royal privileges ("over their heads," if necessary), by the Assembly; but before those Acts became laws the Virginia Court in England would have had to confirm them, in doing which that court would have been openly opposing the King's wishes and it was advisable to avoid this. Therefore, the officials in Virginia pulled the political wires—offering the alternative—either surrender the royal privileges or have Brandon unrepresented in the popular Assembly—evidently for the purpose of inducing Martin to yield his privileges, and thus enable the company to gain the point without an issue with James I.; or if Martin would not yield to make the issue by not seating the Burgesses, so as to make it appear that their Act was directly against Martin, rather than by passing an Act directly against privileges granted by the King. In brief, the matter lying underneath Martin's case made it of very much greater importance than appears on the surface. Save for the intermeddling of James I., the question could not have arisen under the Company, as the extra privileges granted under the auspices of the King were in direct conflict with the "*one equal and uniform*

kind of government," which "the Body Politic" wished to establish in Virginia, and the opposition to Martin which developed in the patriot party after 1617 was against his royal privileges rather than against "our very loving friend Captain John Martin, Esquire," personally. "The thorn in the flesh" was James I., rather than John Martin.

The Acts of our First General Assembly reached England early in 1620, about the time that James I. began his open opposition to the Virginia Court, and diplomacy was soon almost useless. Martin's royal privileges were soon annulled and he went to England in April, 1621, with the hope of having them restored; but he found the Virginia Court in England as firm as the General Assembly in Virginia in refusing to restore his patent unless he surrendered his extra privileges, and this he still refused to do. Early in 1622 William Herbert, Earl of Pembroke; Robert Rich, Earl of Warwick; Robert Sydney, Earl of Leicester; Philip Herbert, Earl of Montgomery; Edmund, Lord Sheffield; Sir Robert Mansell; Sir Thomas Smythe; *Captain Francis West*; William St. John; Samuel Argall; Robert Johnson and William Canning gave him a very strong endorsement to the Virginia Court (an abstract of which is given in *The Genesis of the United States*, Vol. II, p. 943), to which that Court replied on March 23rd following, still firm in the determination that the extra privileges must be eliminated. If Martin would surrender the King's grant, however, the Virginia Court offered to give him a new patent of all his lands with as large privileges as any; but not superior to others, for they would not infringe on the equal kind of government which they desired to establish in America.

The controversy went on before the Master of Requests, and even with the King himself; but the Virginia court remained firm. Finding it impossible to secure his extra privileges from the company, on December 19th, 1622, Martin wrote to his brother-in-law, Sir Julius Cæsar, Master of the Rolls, asking him "to order that my ould Patent may be brought in and delivered to your honour's hands," and offering to compromise with the Virginia Court: "That if they thinke my enjoyinge of the King's favorable grant be a rupture in their manner of graunts, then let them give me a fit recompence someway answer-

able to my tyme, labours and losse. * * * * Soe shall I be free from further pressure of impeaching the policie of their government." An agreement was finally reached, and at the Virginia Courts, February 13th and April 12th, 1623 (N. S.), it was arranged that the lands be selected in the limits of the old Martin Brandon plantation ; but the new patent did not restore his original royal privileges.

Before this agreement went into effect, however, the King determined to annull the company's charters under which Martin's new patent was granted, and the Privy Council ordered that those members of the company who would consent to surrender the said charters "without suit, should enjoy all suche rights and privileges as in former times they had enjoyed." This order covered Martin's case ; if the King annulled the company's charter, as he had determined to do, Martin's new patent would be worthless, and if he consented to the surrender of the charters, his royal privileges would be restored to him. And in October following, he voted to surrender the company's charter in the hope of securing his old privileges by so doing. Two months thereafter, the Privy Council gave him the following letter :

" At Whitehall, 19 December, 1623.

" Present:—George Abbot, Lord Archbishop of Canterbury; John Williams, Lord Keeper; Lionel Cranfield, Lord Treasurer; Henry Montague, Lord President; Ludovic Stuart, Lord Steward of the King's Household [whose widow was the patroness of Smith's History]; William Herbert, Lord Chamberlain; James Hay, Earl of Carlisle; Oliver St. John, Lord Viscount Grandison; Arthur Lord Chichester; Mr. Secretary Calvert; Master Chancellor of the Exchequer Weston; Sir Julius Cæsar, Master of the Rolls.

" Whereas, Captain John Martin, Esquire, being a Planter in Virginia, hath been detained a good space here by reason of divers controversies which have risen concerning the Plantation of Virginia, wherein (as we conceive) he hath behaved himself honestly and discreetly: ffor as much therefore as he is now returning back again with some of his servants, and many others that would plant and join with him, and begin again to settle

himself and them upon his ruined Plantation. Wee have thought good to accompany him with these our letters unto you, the Governor and Councill there:

"And although wee doubt not but that you will use him and his associates as becometh you, and may stand with the advancement of the Plantation, yet we will expect that with this our Recommendation, somewhat more than ordinary respect should be had of him; and do require you to take care (so much as in you lyeth) that he and all such as shall be under his command may be from all danger of opposition, and peaceably enjoy all such lands and goods as belong unto them, behaving themselves as faithfull subjects ought to do.

"Whereof nothing doubting, wee bid you heartily farewell."

At the preparative court, February 12, 1624 (N. S.), the Council of the Company for Virginia, at Martin's request and at the entreaty of his Majesty's commissioners wrote a very favorable letter in his behalf to the Governor and Council in Virginia, and at the next Quarter Court (February 14), Mr. Deputy Farrar acquainted the court that the differences between the company and Captain Martin were now well composed and read the said letter which was accepted by the court.* Armed with these two letters, one from the Council of the Crown, the other from the Council of the Company, Martin sailed for Virginia and arrived there when the whole colony was in an excited state of mind fearing the loss of the charter rights which Martin had already voted to surrender. I do not know how many in Virginia wished to yield the company charters to the crown; but probably every patriot not wishing to yield them, regarded Martin as an enemy to their purposes when his cases were being considered. He afterwards wrote to Sir Julius Cæsar that "*Sir Francis Wyatt and George Sandys made no more of account of the Letters which he brought than if they had come from the meanest men in England.*"

Martin's sixth demand was referred by the council in Virginia to a General Assembly of which no special account has yet been

*The letter is printed in *Collections of the Virginia Historical Society*, new series, Vol. VIII, pp. 252, 253.

found, but if it met, it must have been prior to February, 1625. Martin wrote to Cæsar that "*George Sandys dared to say openly in their Parliament* [referring to said Assembly, or to one of the conventions of 1625], *that at all times for ten pieces given to a Secretary he could have such a letter as the one* [which Martin brought to Virginia] *from the Privy Council.*'

These passages illustrate the spirit of liberty which had been developing under the popular charters in the free air of Virginia. The abstracts from letters, and the enclosures, given in this Magazine, VII, pp. 130-132, 137-146, show the same spirit. The royal commission of August 26 (O. S.), 1624 (VII, pp. 129-130), arrived in Virginia in March, 1625. In this commission Martain was appointed by James I, to be one of *his* council in Virginia, and remembering that the appointment was made by the King to his own council and that the result of the *Quo Warranto* suit was then known in the colony, it will be seen that the reference to this appointment in the letter of June 15 (O. S.), 1625 (VII, pp. 134-136), show very clearly the same spirit. These letters and enclosures arrived in England after his death, but we can well imagine the spirit in which James I would have received them.

My sympathies are with the patriot party, which managed the business and laid the foundation for the new nation in the new world upon which it has grown to be the greatest nation in the whole world, hence they are not with Martin when affiliating with the court party which controlled the evidences and laid the foundation for the history of this great reform movement as it has been written; but I do not believe that it would be just to judge him entirely on the evidence of his opponents, even if there were no counter evidences nor extenuating circumstances. His royal privileges should not have been granted, and would not have been save for the interference of James I.; but from *Martin's point of view they were his charter rights*, and therefore he deserves praise rather than condemnation for his firmness in defending those rights. As he was deprived of them during Yeardley's administration (1619-1621), it was natural for him to regard Sir George Yeardley as the chief cause of his losses and difficulties in Virginia. He had stood by the colony in person during her very darkest hours; when he returned to

England with Dale in 1616, Virginia was regarded as a settled plantation; his services in Virginia prior to 1616 were acknowledged and rewarded by the managers of the business, and although 'he fell into the snare of the fowler,' he continued to devote his life to Virginia, and his dust is mingled with her sacred soil, and for these reasons, although his political changes make his case a hard one to deal with fairly, I do not believe that he should be "viewed with the critic's eye."

The charges made against him in the *Oxford Tract*, published in 1612, when he was serving as an official under the company in Virginia, are either modified, or not made, in the history licensed by the crown in 1624, and, of course, he is not assailed in that history for his acts after 1617.

I have written this article because the proper understanding of Martin's case is of great historic importance, and I was not as familiar with the political aspects of the great reform movement which gave birth to this nation when I wrote the sketch of him given in "The Genesis of the United States" (Vol. II, pp. 943, 944) as I am now.

ALEXANDER BROWN.

Papers Relating to the Administration of Governor Nicholson and to the Founding of William and Mary College.

(CONTINUED.)

[The captions of these papers in square brackets have been added by the Editor. Additions by Nicholson have been placed in quotations.]

[BLAIR TO NICHOLSON.]

Midle Plantation, May ye 8th, 1695.

May it please your Excellency, we have been taken up three days at James Town ab' ye College business wth now looks wth as bad an appearance as ever; Collo. Ludwell [Philip Ludwell, Sr.] seeing how matters are like to be governed, will not be perswaded on any Acc't to undertake ye work. The reason he